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DEPARTMENT OF STATE TELEGRAM

MSG. 11-70

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FM SECSTATE WASHDC

TO AMEMBASSY BONN PRIORITY

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

USMISSION BERLIN

S E C R E T STATE 071338

BONN FOR ASSISTANT SECRETARY HILLENBRAND

SUBJECT: GAO LETTER ON BERLIN OCCUPATION COSTS AUDIT

1. SECRETARY HAS RECEIVED FOLLOWING LETTER APRIL 20, 1971, FROM ELMER B. STAATS, COMPTROLLER GENERAL, ON SUBJECT OF BERLIN OCCUPATION COSTS: QTE DEAR MR. SECRETARY: ENCLOSED IS A COPY OF A LETTER I HAVE SENT TODAY TO THE CHAIRMEN OF THE SEVERAL COMMITTEES OF THE CONGRESS HAVING RESPONSIBILITIES RELATING TO UNITED STATES MILITARY COSTS OR ACTIVITIES, TO ADVISE THEM OF THE REJECTION BY THE DEPARTMENT OF STATE OF OUR EFFORTS TO OBTAIN ACCESS TO UNITED STATES ARMY RECORDS RELATING TO U.S. OCCUPATION COSTS IN BERLIN AS STATED IN OUR LETTER OF MAY 25, 1970. PARA QTE AS WE NOTED IN OUR LETTER TO THE COMMITTEES, THIS REFUSAL BY THE DEPARTMENT HAS THE EFFECT OF PRECLUDING

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164-EUR ADDED 2300718 MAY 71 PER EUR 351

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THE COMPTROLLER GENERAL FROM CARRYING OUT THE RESPONSIBILITIES PLACED UPON HIM BY THE BUDGET AND ACCOUNTING ACT, ^{QOWQN} 1921, AS AMENDED. UNQTE

2. IN THE LETTER TO CHAIRMAN FULBRIGHT OF THE SAME DATE, COMPTROLLER GENERAL STAATS MAKES THE FOLLOWING POINTS:

A) DURING 1970 GAO MADE PLANS TO REVIEW OCCUPATION COSTS IN BERLIN AND TO EXAMINE SYSTEM OF ACCOUNTS AND CONTROLS ADMINISTERED BY THE US ARMY TO ASSURE ITSELF AND THE CONGRESS THAT COSTS PROPERLY CHARGEABLE TO FRG ARE BORNE BY LATTER AND THAT US FINANCIAL INTERESTS ARE PROPERLY PROTECTED. ACCESS TO THE RECORDS RELATING TO US OCCUPATION COSTS HAS BEEN DENIED GAO BY DEPARTMENT OF STATE. HENCE, IT IS UNABLE TO CARRY OUT SCHEDULED EXAMINATION AS PART OF AUDIT RESPONSIBILITY PURSUANT TO BUDGET AND ACCOUNTING ACT OF 1921.

B) "DECLARATION OF BERLIN" OF MAY 1955 AMONG US, UK, FRANCE AND FRG PROVIDES THAT COST INCURRED BY OCCUPATION POWERS THAT ARE REIMBURSABLE BY FRG ARE SUBJECT TO AUDIT BY GERMAN FEDERAL COURT OF ACCOUNTS, WHICH IS ESSENTIALLY THE GERMAN COUNTER-PART OF GAO. COURT'S PRIMARY CONCERN IS TO PROTECT FRG INTERESTS.

C) GAO INFORMED US EMBASSY, BONN, IN FEBRUARY 1970 OF PLAN TO REVIEW US OCCUPATION COSTS IN BERLIN. EMBASSY EXPRESSED RESERVATION THAT BASIC AUDIT AGREEMENT ON BERLIN DID NOT PERMIT INDEPENDENT REVIEW BY ANY OF POWERS' SUPREME AUDIT ORGANIZATIONS. IN DISCUSSION WITH EMBASSY AND DEPARTMENT OFFICIALS GAO EMPHASIZED ITS REVIEW WOULD BE LIMITED TO US COSTS AND BASED ON RECORDS AVAILABLE IN US AGENCIES.

D) IN MAY 1970, GAO FORMALLY REQUESTED THAT DEPARTMENT AUTHORIZE ACCESS TO PERTINENT RECORDS. ALTHOUGH IT WAS ADVISED IN JUNE 1970 THAT IT COULD ANTICIPATE EARLY REPLY, GAO HAD TO PRESS FOR ANSWER FOR NINE MONTHS AND THEN WAS OFFICIALLY ADVISED IN MARCH 1971 THAT ACCESS IS DENIED.

E) DEPARTMENT'S MARCH 8, ¹⁹⁷¹ QOWQ LETTER OF REFUSAL WAS CLASSIFIED SECRET, BUT GAO HAS CONSIDERABLE DOUBT THAT SUBSTANCE OF LETTER JUSTIFIES ANY SECURITY CLASSIFICATION.

F) IN DENYING GAO ACCESS, DEPARTMENT MADE NO REFERENCE TO

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INVOCATION OF EXECUTIVE PRIVILEGE. IN ABSENCE OF EXERCISE OF EXECUTIVE PRIVILEGE, GAO FEELS DEPARTMENT HAS NO AUTHORITY TO DENY GAO RIGHT TO EXAMINE RECORDS AND CONDUCT REVIEW. DEPARTMENT' REFUSAL PRECLUDES GAO FROM CARRYING OUT RESPONSIBILITY FOR AUDITS AS PROVIDED BY LAW. RIGHT OF GAO TO UNRESTRICTED ACCESS TO PERTINENT RECORDS IS NOT ONLY BASED ON LAW BUT IS INHERENT IN NATURE OF ITS ASSIGNED DUTIES AND RESPONSIBILITIES.

G) GAO BELIEVES THAT DEPARTMENT'S REFUSAL AND UNREASONABLE DELAY ARE MATTERS OF CONCERN WHICH WARRANT ATTENTION OF CONGRESS. IT IS SENDING SIMILAR LETTERS TO CHAIRMEN OF SEVERAL CONGRESSIONAL COMMITTEES HAVING INTEREST IN THIS MATTER.

3. CHAIRMAN OF HOUSE COMMITTEE ON FOREIGN AFFAIRS IN A REPLY TO COMPTROLLER GENERAL, OF WHICH HE SENT COPY TO THE SECRETARY, STATES "THIS IS A MATTER WHICH SHOULD BE EXPLORED. IT IS QUITE POSSIBLE THAT THE ARRANGEMENTS MADE FOR FINANCING THE OCCUPATION OF BERLIN IN THE EARLY POST-WAR PERIOD MAY NOT HAVE BEEN ADEQUATELY ADJUSTED AS THE SITUATIONS OF THE PARTICIPANTS HAVE CHANGED."

4. DEPARTMENT IS PREPARING PRESS GUIDANCE FOR CONTINGENCY THAT COMPTROLLER GENERAL'S LETTER TO COMMITTEE CHAIRMAN IS MADE PUBLIC. EMBASSY WILL BE PROVIDED GUIDANCE AS SOON AS AVAILABLE. GP-3. IRWIN

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R 131717Z MAY 71
FM AMEMBASSY BONN
TO SECSTATE WASHDC 3086
INFO USMISSION BERLIN
USAREUR

SECRET BONN 5774

LIMDIS

SUBJECT: GAO AUDIT OF BERLIN OCCUPATION COST EXPENDITURES

REF: BONN 5094 AND STATE 072708

1. AFTER CONSULTATION WITH USMISSION BERLIN AND USAREUR, WE SUBMIT THE FOLLOWING AS REPRESENTING THE COMMON GERMANY-WIDE VIEW OF THE PROPOSED GAO AUDIT.
2. IT OBVIOUSLY HAS NOT BEEN OUR INTENTION OR DESIRE TO PRECLUDE THE COMPTROLLER GENERAL AND MEMBERS OF HIS STAFF FROM CARRYING OUT THEIR RESPONSIBILITIES, BUT WE HAVE HELD THE VIEW THAT THE SPECIAL CIRCUMSTANCES IN BERLIN WARRANTED THE POSITION WE HAVE PREVIOUSLY EXPRESSED. WE ARE PREPARED NOW TO ACCEPT THE CONCERN EXPRESSED IN THE LETTER FROM THE COMPTROLLER GENERAL AS OVERRIDING OTHER FACTORS INVOLVED AND TO AGREE TO THE PROPOSED AUDIT.
3. WE WILL BE READY TO DO EVERYTHING POSSIBLE TO FACILITATE THE WORK OF THE AUDITORS AND TO WITHHOLD NOTHING WHICH THEY ARE AUTHORIZED TO HAVE UNDER THEIR SECURITY CLEARANCES WHICH WILL HAVE BEEN CERTIFIED TO BY THE GAO. WE HAVE SUCCESSFULLY OPERATED WITH GAO ON OTHER OCCASIONS BY WITHHOLDING ONLY DATA WHICH THEIR SECURITY CLEARANCES DO NOT COVER.

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